

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CALLAWAY GOLF COMPANY, )  
Plaintiff, ) C.A. No. 06-91-SLR  
v. )  
ACUSHNET COMPANY, ) PUBLIC VERSION  
Defendant. )

**COMPENDIUM OF EXHIBITS IN SUPPORT OF ACUSHNET'S BRIEF  
IN OPPOSITION TO CALLAWAY GOLF'S MOTION  
FOR PERMANENT INJUNCTION**

**VOLUME 6**

**EXHIBITS 41 TO 43**

OF COUNSEL:

Joseph P. Lavelle  
Kenneth W. Donnelly  
Mark L. Whitaker  
Brian A. Rosenthal  
Nicholas J. Little  
HOWREY LLP  
1299 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
Tel: (202) 783-0800

Richard L. Horwitz (#2246)  
David E. Moore (#3983)  
POTTER ANDERSON & CORROON LLP  
Hercules Plaza 6th Floor  
1313 N. Market Street  
P.O. Box 951  
Wilmington, DE 19899  
Tel: (302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

*Attorneys for Defendant  
Acushnet Company*

Dated: February 25, 2008  
Public Version Dated: March 3, 2008  
850758 /30030

**TABLE OF CONTENTS**

<b><u>DESCRIPTION</u></b>	<b><u>TITLE</u></b>	<b><u>EX.</u></b>
	Intentionally Left Blank	41
	Intentionally Left Blank	42
	Mickelson e-mail ruling	43

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, David E. Moore, hereby certify that on March 3, 2008, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on March 3, 2008, the attached document was Electronically Mailed to the following person(s):

Thomas L. Halkowski  
Fish & Richardson P.C.  
919 N. Market Street, Suite 1100  
P. O. Box 1114  
Wilmington, DE 19899-1114  
[halkowski@fr.com](mailto:halkowski@fr.com)

Frank E. Scherkenbach  
Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
[scherkenbach@fr.com](mailto:scherkenbach@fr.com)

Robert A. Denning  
David S. Shuman  
W. Chad Shear  
Fish & Richardson P.C.  
12290 El Camino Real  
San Diego, CA 92130  
[denning@fr.com](mailto:denning@fr.com)  
[shuman@fr.com](mailto:shuman@fr.com)  
[shear@fr.com](mailto:shear@fr.com)

Jonathan J. Lamberson  
Christina D. Jordan  
Craig R. Compton  
Fish & Richardson P.C.  
500 Arguello Street, Suite 500  
Redwood City, CA 94063  
[lamberson@fr.com](mailto:lamberson@fr.com)  
[cjordan@fr.com](mailto:cjordan@fr.com)  
[compton@fr.com](mailto:compton@fr.com)

*/s/ David E. Moore*  
Richard L. Horwitz  
David E. Moore  
Potter Anderson & Corroon LLP  
Hercules Plaza – Sixth Floor  
1313 North Market Street  
Wilmington, DE 19899-0951  
(302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

# EXHIBIT 41

**INTENTIONALLY LEFT BLANK**

# EXHIBIT 42

**INTENTIONALLY LEFT BLANK**

# EXHIBIT 43

**Little, Nicholas**

---

**From:** Donnelly, Ken  
**Sent:** Monday, February 25, 2008 7:27 AM  
**To:** Little, Nicholas; Rosenthal, Brian  
**Subject:** FW: Callaway v. Acushnet - ruling re: Phil Mickelson

----- Original Message -----

From: Stephanie\_Obyrne@ded.uscourts.gov <Stephanie\_Obyrne@ded.uscourts.gov>  
To: halkowski@fr.com <halkowski@fr.com>; Horwitz, Richard L.  
Cc: Francesca\_Tassone@ded.uscourts.gov <Francesca\_Tassone@ded.uscourts.gov>  
Sent: Mon Dec 10 17:49:16 2007  
Subject: Callaway v. Acushnet - ruling re: Phil Mickelson

Counsel,

Having considered the parties' arguments regarding Phil Mickelson's proffered testimony, Judge Robinson has concluded that the marginal relevance of such testimony is outweighed by the danger of unfair prejudice attributed to his celebrity status. The court cautions in this regard, however, that the fact that Mr. Mickelson did not testify at trial cannot be used in any way by Acushnet to challenge the veracity of the statements and/or conduct attributed to him in the articles already allowed into evidence.

Judge Robinson will put Her ruling on record tomorrow morning. She will not entertain further submissions on this issue.

Very best regards,

Stephanie O'Byrne  
clerk to the Hon. Sue L. Robinson  
United States District Court for the District of Delaware